

IPU

Attorney Docket: 071469-0304673

Client Reference: RAJ-003

JAN 16 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

On re PATENT APPLICATION of: NORIAKI FUKIAGE

Application No.: 10/644,958

Group Art Unit: 1762

Filed: August 21, 2003

Examiner: Kelly Stouffer

Title: METHOD AND APPARATUS FOR DEPOSITING MATERIALS IN TUNABLE OPTICAL PROPERTIES AND ETCHING CHARACTERISTICS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the one-month Restriction Requirement dated December 27, 2006, Applicant elects Group I, encompassing claims 1-59, for examination with *traverse*.

Applicant traverses the Restriction because the Examiner fails to explain "why there would be a serious burden on the examiner if restriction is not required." MPEP § 808. It is respectfully submitted that the subject matter of these two Groups is sufficiently related that a thorough search for the subject matter of one Group would necessarily encompass a search for the other Group. MPEP §803 states that "[i]f the search and examination of an entire application can be made without serious burden the Examiner must examine it under the merits, even though it includes claims to independent or distinct inventions." (emphasis added). It is respectfully submitted that the Restriction should be withdrawn in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent and Trademark Office.

With this said, Applicant reserves the right to file a divisional application directed to the subject matter of Group II (claims 60-102) at a later date.

Please charge any fees associated with the submission of this paper to Deposit Account Number **03-3975**. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account

Respectfully submitted,

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